

(Published in *The Wichita Eagle*, May 24, 2011)

ORDINANCE NO. 49-014

AN ORDINANCE AUTHORIZING THE CITY OF WICHITA, KANSAS, TO ISSUE ITS REVENUE BONDS, SERIES II, 2011 (FOUR-G, LLC) (TAXABLE UNDER FEDERAL LAW), IN THE AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$9,574,400 FOR THE PURPOSE OF CONSTRUCTING, ACQUIRING AND EQUIPPING A COMMERCIAL FACILITY; AND AUTHORIZING THE EXECUTION OF CERTAIN DOCUMENTS IN CONNECTION WITH THE ISSUANCE OF THE BONDS.

WHEREAS, the City of Wichita, Kansas (the “Issuer”), is authorized by K.S.A. 12-1740 *et seq.*, as amended (the “Act”), to acquire, construct, improve and equip certain facilities (as defined in the Act) for commercial, industrial, recreational and manufacturing purposes, to enter into leases and lease-purchase agreements with any person, firm or corporation for such facilities, and to issue revenue bonds for the purpose of paying the costs of such facilities; and

WHEREAS, pursuant to the Waterwalk Ground Lease No. 4 dated as of June 30, 2010 (the “Original Lease”), the Issuer has previously leased certain land owned by the City (the “Premises” as defined in the hereinafter described Lease) to Four-G, LLC, a Kansas limited liability company (the “Tenant”); and

WHEREAS, the Issuer has found and does find and determine that it is desirable in order to promote, stimulate and develop the general welfare and economic prosperity of the Issuer and the State of Kansas that the Issuer issue its Industrial Revenue Bonds, Series II, 2011, in the aggregate principal amount of not to exceed \$9,574,400 (the “2011 Bonds”), for the purpose of paying the costs of constructing, acquiring and equipping a facility to be used for commercial purposes and located on the Premises (the “Bond Improvements”) as more fully described in the Indenture (as herein defined) and the Lease (as herein defined) and to amend the Original Lease to provide for the lease of the Bond Improvements by the Issuer to the Tenant; and

WHEREAS, the 2011 Bonds and the interest thereon shall not be a general obligation of the Issuer, shall not be payable in any manner by taxation and shall be payable solely from the trust estate established under the Indenture, including revenues from the Lease of the Bond Improvements; and

WHEREAS, the Issuer further finds and determines that it is necessary and desirable in connection with the issuance of the 2011 Bonds to execute and deliver (i) a Trust Indenture dated as of June 1, 2011 (the “Indenture”), with UMB Bank, N.A., as trustee (the “Trustee”), prescribing the terms and conditions of issuing and securing the 2011 Bonds; (ii) a First Amendment to Waterwalk Ground Lease No. 4 dated as of June 1, 2011 (the “Lease Amendment”), with the Tenant which

amends the Original Lease and provides for the payments of Basic Bond Rent (as defined in the Lease Amendment) and other payments provided for therein, (iii) a Bond Placement Agreement dated as of June 1, 2011 (the “BPA”), with Standard Insurance Company, as purchaser of the 2011 Bonds and the Tenant, and (iv) an Administrative Service Fee Agreement between the Issuer and the Tenant (collectively, the “Bond Documents”);

NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS, AS FOLLOWS:

Section 1. Authority to Cause the Bond Improvements to be Constructed, Acquired and Equipped. The Governing Body of the Issuer hereby declares that the Bond Improvements, if in being, would promote the welfare of the City of Wichita, Kansas, and the Issuer is hereby authorized to cause the Bond Improvements to be constructed, acquired and equipped all in the manner and as more particularly described in the Indenture and the Original Lease as amended by the Lease Amendment (collectively, the “Lease”).

Section 2. Authorization of and Security for the 2011 Bonds. The Issuer is hereby authorized and directed to issue the 2011 Bonds, to be designated “City of Wichita, Kansas, Industrial Revenue Bonds, Series II, 2011 (Four-G, LLC) (Taxable Under Federal Law),” in the aggregate principal amount of not to exceed \$9,574,400. The 2011 Bonds shall be dated and bear interest, shall mature and be payable at such times, shall be in such forms, shall be subject to redemption and payment prior to the maturity thereof, and shall be issued in the manner prescribed and subject to the provisions, covenants and agreements set forth in the Indenture. The 2011 Bonds shall be special limited obligations of the Issuer payable solely from the trust estate established under the Indenture, including revenues from the lease of the Bond Improvements. The 2011 Bonds shall not be general obligations of the Issuer, nor constitute a pledge of the full faith and credit of the Issuer and shall not be payable in any manner by taxation.

Section 3. Lease of the Bond Improvements. The Issuer shall cause the Bond Improvements to be leased to the Tenant pursuant to and in accordance with the provisions of the Lease in the form approved herein.

Section 4. Execution of 2011 Bonds and Bond Documents. The Mayor of the Issuer is hereby authorized and directed to execute the 2011 Bonds and deliver them to the Trustee for authentication on behalf of, and as the act and deed of the Issuer in the manner provided in the Indenture. The Mayor is further authorized and directed to execute and deliver the Bond Documents on behalf of, and as the act and deed of the Issuer in substantially the forms presented for review prior to final passage of this Ordinance, with such minor corrections or amendments thereto as the Mayor may approve, which approval shall be evidenced by his execution thereof, and such other documents, certificates and instruments as may be necessary or desirable to carry out and comply with the purposes and intent of this Ordinance and the Bond Documents. The City Clerk or any Deputy City Clerk of the Issuer is hereby authorized and directed to attest the execution of the 2011 Bonds, the Bond Documents and such other documents, certificates and instruments as may be necessary or desirable to carry out the intent of this Ordinance under the Issuer’s official seal.

Section 5. Pledge of the Bond Improvements and Revenues. The Issuer hereby pledges the Bond Improvements and the net revenues derived from the Bond Improvements to the payment of the 2011 Bonds in accordance with K.S.A. 12-1744. The lien created by such pledge shall be discharged when all of the 2011 Bonds shall be deemed to have been paid within the meaning of the Indenture.

Section 6. Further Authority. The officers, agents and employees of the Issuer are hereby authorized and directed to take such action and execute such other documents, certificates and instruments as may be necessary or desirable to carry out the provisions of this Ordinance and to carry out and perform the duties of the Issuer with respect to the 2011 Bonds and the Bond Documents as necessary to give effect to the transactions contemplated in this Ordinance and in the Bond Documents.

Section 7. Effective Date. This Ordinance shall take effect from and after its final passage by the Governing Body of the Issuer, signature by the Mayor and publication once in the official newspaper of the Issuer.

PASSED by the Governing Body of the City of Wichita, Kansas, and approved by the Mayor on May 24, 2011.

CITY OF WICHITA, KANSAS

(Seal)

By _____
Carl Brewer, Mayor

Attest:

By _____
Karen Sublett, City Clerk

Approved as to form:

By _____
Gary E. Rebenstorf, City Attorney